

# Memorandum

To: CHAIR AND MEMBERS  
Airspace Advisory Committee

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From: DEPARTMENT OF TRANSPORTATION  
DIVISION OF RIGHT OF WAY  
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Subject: Airspace Program Annual Update

## Overview

The Airspace Program within the Division of Right of Way is composed of three basic components: Airspace, Wireless and Wireline. All three areas seek to maximize the Department's real estate assets by leasing areas within highway rights of way, specifically freeway and access-controlled rights of way. Whether an airspace, wireless or wireline site, they are all generally referred to as airspace.

Airspace traditionally was defined as an area under freeway structure. That definition was expanded to include any leaseable area within freeway right of way, including maintenance stations, rest stops, park and ride lots, and in some cases, Department office sites.

The Airspace Program as a whole enjoyed its most successful year ever in terms of revenue. During FY 2000-01, the Airspace Program generated approximately \$20.5 million in revenue on expenses of about \$1.5 million. These numbers do not include the income produced from the Wireline component.

Revenue produced by the Airspace Program is deposited into the State Highway Account (SHA). Once there, the money was then made available for highway projects Statewide. Recent legislation changed the process somewhat in that revenue generated from the Department's real estate assets is now deposited into the SHA and is then transferred annually to the Public Transportation Account (PTA). The PTA funds mass transportation projects Statewide.

## Airspace:

The Division of Right of Way manages approximately 864 airspace sites Statewide. In FY 2000-01, these sites produced income in excess of \$18.2 million. District 4 produces over half of the statewide airspace income, generating it from less than half of the statewide total of airspace sites. District 4 encompasses the urban counties of the San Francisco/Oakland Bay Area. The Airspace Program's most profitable airspace sites tend to be short-term parking lot leases in downtown San Francisco.

The Southern Right of Way Region, covering most of Southern California, excluding San Diego, also generates a sizable portion of the annual income. The remainder of the yearly income is generated in the San Diego and Sacramento areas.

Longer-term projections indicate some growth in the airspace program can be expected to be seen the Central Valley as the area matures and real estate values increase.

### **Wireless:**

The Wireless Licensing Program commenced in May 1997 as a result of an Executive Order from then Governor Pete Wilson. Most of the activity here can be found in the Bay Area and to a lesser degree, Southern California. Currently the Airspace Program has 101 sites licensed and producing annual income. The Wireless Licensing Program only accommodates cell telephone carriers who meet the requirements and have executed the Master License Agreement. Placement of wireless facilities in conventional highway rights of way is handled as an encroachment and is not subject to the Wireless Licensing Program guidelines.

Last year, the Wireless component generated approximately \$2.4 million in income to the PTA. This number is inflated in that the wireless carriers seemed to have in many cases paid their annual license fees for next fiscal year during the current fiscal year skewing this year's total.

Currently there are approximately 50 potential sites statewide that are being reviewed and processed through both the District Airspace Review Committees (DARC) and various local agencies. Historically, most of these sites will either be denied or will not be constructed by the carrier. The single most important factor in a site being denied is lack of access to the cell facility from outside the traveled way. From a safety and operational standpoint, all access for maintenance and construction of a cell phone facility must be from an area outside the right of way.

Other factors in a potential site not being constructed are local agency objections due to appearance and visibility and the ability of a carrier to find a cheaper more suitable site not subject to Department review. In other words, the local agencies are increasingly reluctant to approve cell towers and often mandate they be camouflaged even when placed in freeway right of way. Also, private property owners tend to impose fewer restrictions on cell tower placement and may accept a smaller rental/lease fee than that charged by the Department.

Pricing of individual wireless facilities is accomplished using a predetermined schedule made available to all carriers who participate in the program. By executing a Master License Agreement, FCC licensed wireless telephone companies may participate by being assured their individual proposals are processed within a reasonable timeframe using consistent Department criteria. The pricing schedule or "matrix" incorporates

location, size of the footprint, number and/or type of antenna. The schedule displays the appropriate annual license fee based on the criteria mentioned. The pricing schedule also reflects an annual 3.5 % increase.

The Wireless Licensing Program in its current configuration as approved by the California Transportation Commission (CTC) is due for renewal effective June 30, 2002. To meet this deadline, Airspace Staff is revisiting the pricing methodology to insure the Department is maximizing the right of way as well getting the highest price obtainable. Another area being explored is the concept of allowing other wireless technologies access to our freeways. New wireless technologies such as paging, internet, satellite and localized radio communications are conceivably new sources of revenue.

The Wireless Licensing Program has shown steady increases in revenue and number of sites since it was established. It has been a nice addition to the overall Airspace Program and helps provide a valuable service to the motoring public. The future, however, is uncertain. Some have speculated that wireless technology will become satellite-based with little or no need for ground towers and antenna. In the meantime, the Airspace Program will continue to attempt to adapt and accommodate the communications industry. The Airspace Program will also continue to look for assistance from the Airspace Advisory Committee (AAC) in carrying out our mission in maximizing the use of the Department's rights of way.

### **Wireline**

The Airspace Program is working with other Divisions of the Department to develop and implement policies and procedures to accommodate fiber optics in access-controlled rights of way with compensation. In the past, the Department rarely allowed the placement of fiber optics in access-controlled rights of way. In contrast, conventional highway (no access-control) placements of fiber have always been allowed under the Encroachment Permit process without compensation (other than administrative fees).

This past fiscal year the Department, for the first time, entered into agreements at three locations statewide for the placement of fiber optics. The agreements covered placements totaling approximately 20 miles in length and the Department received approximately \$10 million in compensation and two empty conduits for state purposes. These monies were deposited into the SHA under miscellaneous revenues.

Discussions are underway in deciding how to implement an ongoing Wireline Program. One of the concepts being considered would be to develop a "pricing matrix" similar to the Wireless program. The Airspace Program will continue to discuss this topic with the Committee and look forward to your input.

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